

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

ROY WYATT and DONTE MCNEIL, :
Plaintiffs, :
: :
v. : : **No. 19-cv-5460**
: :
DEPARTMENT OF :
PROBATION AND PAROLE, et al., :
Defendants. :
:

O R D E R

AND NOW, this 8th day of May, 2020, upon consideration of Roy Wyatt and Donte McNeil's *pro se* Complaint (ECF No. 2), Motion for Appointment of Counsel (ECF No. 9), and Roy Wyatt's Declaration in Support of Preliminary Injunction and TRO (ECF No. 16), it is
ORDERED that:

1. For the reasons discussed in the Court's Memorandum, the following claims are **DISMISSED WITH PREJUDICE** pursuant to 28 U.S.C. § 1915(e)(2)(B)(i) and (ii): (1) claims made on behalf of any other individuals besides Wyatt and McNeil; (2) claims for injunctive relief; (3) claims against the Department of Probation and Parole; (4) claims against Garner and Wetzel in their official capacities; and (5) claims based on grievances.

2. The Clerk of Court is **DIRECTED** to terminate the Department of Probation and Parole.

3. Wyatt and McNeil's due process claims are **DISMISSED WITHOUT PREJUDICE**, pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii), as barred by *Heck v. Humphrey*, 512 U.S. 477 (1994). The dismissal is without prejudice to Wyatt or McNeil filing a new case only in the event either of their underlying parole revocations are reversed, vacated, or otherwise invalidated.

4. Wyatt and McNeil's claims regarding "Act 122" and claims based on conditions of confinement or an alleged lack of medical treatment for are **DISMISSED WITHOUT PREJUDICE** for failure to state a claim pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) for the reasons discussed in the Court's Memorandum.

5. Wyatt and McNeil may file an amended complaint within thirty (30) days of the date of this Order in the event that either one of them can state plausible claims that cure the defects noted in the Court's Memorandum with respect to the following claims: (1) claims regarding "Act 122," (2) claims regarding conditions of confinement, or (3) claims based on an alleged lack of medical treatment. Any amended complaint shall identify all defendants in the caption of the amended complaint in addition to identifying them in the body of the amended complaint, shall state the basis for Wyatt or McNeil's claims against each defendant, and shall bear the title "Amended Complaint" and the case number 19-5460. If Wyatt or McNeil file an amended complaint, the amended complaint must be a complete document that includes all of the bases for their claims. Claims that are not included in the amended complaint will not be considered part of this case. When drafting their amended complaint, Wyatt and McNeil should be mindful of the Court's reasons for dismissing their claims as explained in the Court's Memorandum. Upon the filing of an amended complaint, the Clerk shall not make service until **SO ORDERED** by the Court.

6. The Clerk of Court is **DIRECTED** to send Wyatt and McNeil a blank copy of the Court's current standard form to be used by a self-represented litigant filing a civil action bearing the above-captioned civil action number. Alternatively, Wyatt and McNeil may access a blank copy of this Court's current standard form to be used by a self-represented litigant filing a civil action on the Court's web, <https://www.paed.uscourts.gov/documents/forms/frmc1983f.pdf>.

Wyatt and McNeil may use this form to file an amended complaint if either chooses to do so and are reminded to mark all documents with "Civil Action 19-5460".

7. Plaintiffs' Motion for Appointment of Counsel (ECF No. 9) is **DENIED WITHOUT PREJUDICE** at this time.
8. Wyatt's Declaration in Support of Preliminary Injunction and TRO (ECF No. 16) is **STRICKEN**.
9. If Wyatt or McNeil fail to file an amended complaint in accordance with this Order, his case may be dismissed without further notice for failure to prosecute.

BY THE COURT:

/s/ Joseph F. Leeson, Jr.

JOSEPH F. LEESON, JR.
United States District Judge